

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48335 of 2014

Arising Out of PS.Case No. -14 Year- 2014 Thana -MEHANDIA District- JEHANABAD

Santosh Kumar S/o Sri Baliram Sharma Resident of Village Bambhai, P.S. Karpi, District Arwal.

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

with

Criminal Miscellaneous No.11585 of 2015

Arising Out of PS.Case No. -14 Year- 2014 Thana -MEHANDIA District- JEHANABAD

- 1. Shekhar Kumar @ Ghantu
- 2. Dhirendra Kumar @ Dhiraj Both sons of Late Hari Shankar Singh
- 3. Dina Nath Sharma Son of Suresh Singh All are resident of village- Bambhai, P.S. Karpi, District- Arwal.

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

Appearance :

(In Cr.Misc. No.48335 of 2014)

For the Petitioner/s : Mr. Vinay Mistry

For the Opposite Party/s : Mr. S.D.Singh Yadav(App)

(In Cr.Misc. No.11585 of 2015)

For the Petitioner/s : Mr. Nilesh Kumar

For the Opposite Party/s : Mr. Lalan Kumar (App)

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

4 10-04-2015 Heard the learned counsel for the petitioners, namely, (1) Santosh Kumar (Cr. Misc. No.48335 of 2014) (2) Shekhar Kumar @ Ghantu (Cr. Misc. No.11585 of 2015) (3) Dhirendra Kumar @ Dhiraj (Cr. Misc. No.11585 of 2015) & (4) Dina Nath Sharma

(Cr. Misc. No.11585 of 2015), who all are in custody in Mehandia P.S. Case No.14 of 2014 under Section 302 /34 of IPC and Section 27 of the Arms Act.

It appears that FIR was lodged by the informant Suraj Kumar alleging that he got information through telephone that his father and one Surendra were taken to hospital. The informant went to the hospital and found his father and Surendra Kumar Sharma dead. Both of them were coming on a motor cycle and they were killed by fire arms. The motive of occurrence is said to be the removal of up-Pramukh under no confidence motion, therefore there was dispute between the petitioner Santosh Kumar and the father of the informant.

The learned counsels for the petitioner of both the bail applications submitted that one of the co-accused, namely, Shailendra Kumar @ Mantu whose case is on same footing has already been granted bail by this Court in Cr. Misc. No.24663 of 2014. Further there is no eye witness to the occurrence and only on suspicion, the prayer for bail of the petitioners have been refused by the Court below and they have remanded to jail custody and the petitioner, Santosh Kumar is in custody since 20.08.2014 and the other three petitioners are in custody since 02.02.2015.

The learned counsels further submitted that the case is on



circumstantial evidence and now chargesheet has already been submitted and from the chargesheet, it is evident that only the statement under Section 164 Cr.P.C. has been recorded in paragraph 290 and 291 and from perusal of the said paragraphs also, it appears that the witnesses have only stated that the three petitioners of Cr. Misc. No.11585 of 2015 were having danda and rod in their hands.

On the other hand, the learned A.P.P. and the learned counsel appearing on behalf of the informant submitted that the co-accused, Mantu was granted bail prior to the submission of the chargesheet without perusing the case diary. In the case diary, no doubt there is no evidence which is direct but from the circumstances stated by the witnesses whose statements has been mentioned in paragraph 290, 291, 322, and 144 of the case diary the circumstances shows direct involvement of these petitions.

Perused the order passed by this Court in Cr. Misc. No.24663 of 2014. The co-accused Shailendra Kumar @ Mantu has been granted bail by this Court on 18.6.2014. The chargesheet has been submitted in this case by police on 17.11.2014. From perusal of the order passed by this Court, it appears that the case diary was neither called for nor it was perused. From perusal of paragraph 290, 291 and 322, prima facie it appears that the

petitioners were seen near the occurrence with the weapons such as Santosh with rifle and the other petitioners in Cr. Misc. No.11585 of 2015 having rod and danda in their hands. The witness Satyendra Kumar has stated that just after some time, he heard the sound of firing and then subsequently, he learnt that both the deceased were murdered near the place of occurrence. It appears that this is a case of circumstantial evidence and the petitioners were found with the fire arms near the occurrence seen by the witnesses. The witnesses described the enmity and the mensrea to kill. In my opinion, therefore, at this stage the petitioner do not deserve bail and accordingly both the bail applications are hereby rejected.

(Mungeshwar Sahoo, J)

Sanjeev/-

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